GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TRIBAL WELFARE DEPARTMENT - LTR - Revision Petition filed by Sri Vanama Satyanarayana, S/o. Sri Ramamurthy (NT), R/o. Yeleswaram (V) & (M), East Godavari District against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District in CMA No. 120/2005, dated.12.08.2011 in respect of land an extent of Acs. 6.65 cts in Sy.No.23/2, situated at Bodlanka (V), Addateegala (M), Alluri Sitharamaraju District erstwhile East Godavari District - Dismissed-Orders-Issued.

SOCIAL WELFARE (TW.LTR.I) DEPARTMENT

G.O.MS.No.68 Dated: 06.11.2023
Read the following:

1. Revision Petition filed by Sri Vanama Satyanarayana , S/o.Sri Ramamurthy, R/o.Yeleswaram(V) & (M), East Godavari District, dated: 10.09.2011.

2. From the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District, C.M.A. No. 120/2005, dated: 06.12.2006.

@@@@@

ORDER:

In the reference 1st read above, Sri Vanama Satyanarayana , S/o. Sri Ramamurthy, R/o. Yeleswaram (V) & (M), East Godavari District against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District in CMA No. 120/2005, dated. 12.08.2011 in respect of land an extent of Acs. 6.65 cts in Sy.No.23/2 situated at Bodlanka (V), Addateegala (M), Alluri Sitharamaraju District erstwhile East Godavari District.

2. **Brief history of the subject case:**

a) The Special Deputy Tahasildar (TW), Addateegala (M), Alluri Sitharamaraju District has filed a complaint under section 3(1) (a) A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70 for restoration of Petition Scheduled land after ejecting the non-tribal respondents (i.e. Sri Vanama Satyanarayana , S/o. Sri Ramamurthy).

(P.T.O.)

b) The Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District after due enquiry as per the sale deed dated: 22.10.1948, Konda Bulli Raju sold the Petition Scheduled land to Vanama Maridi Raju for Rs.300/- and the land on Sy.No.23/2 confirmed in the name of Vanama Maridi Raju contending that sale took place between non tribals and is not in violation of ALTR. As per the Orders in LTRP. 27/97, the right of Vanama Satyanarayana on Petition Scheduled land is confirmed as no violation of provisions of Act 1/17 or Regulations 1/59 as amended by 1/70 occurred. The adangal extract shows that Vanama Satyanrayana got Petition Scheduled land through said and in his possession only. No evidence is filed to prove prohibitory transfer on Petition Scheduled land and the possession of tribals on Petition Scheduled land at any time after 1917.

c) Hence, the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District has ordered that the possession and enjoyment of respondent on Petition Scheduled land is not in violation of provisions of under section 3(2) (a) of APSALTR 1/59 as amended by 1/70 and is valid one and passed the orders in favour of Sri Vanama Satyanarayana vide LTRP No.48/2003, dated.17.12.2003.

e) Agrieved by the orders of the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District, the Special Deputy Tahasildar (TW), Addateegala Mandal, Alluri Sitharamaraju District has filed an appeal against the orders LTRP No.48/2003, dated.17.12.2003 before the Additional Agent to Government cum Project Officer, I.T.D.A., Rampachodavaram, Alluri Sitharamaraju District.

e) After careful examination of the matter, the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram in exercise of the powers conferred by sub-section (3) of rule 8 of the Andhra Pradesh Scheduled Areas Land Transfer Rules, 1969 and Andhra Pradesh Scheduled Areas Land Transfer Rules, 1959 as amended by 1970, do hereby set aside the order passed by the Special Deputy Collector (TW), Rampachodavaram in LTRP No.48/2003, dated: 17.12.2003 conforming the rights of the respondents over the land of an extent of Ac.6.65 cents in survey No.23/2 in Bodlanka (V), Addateegala (M), Alluri Sitharamaraju District as it is contrary to law and not valid under A.P. Scheduled Areas Land Transfer Regulation 1 of 1959 as amended by 1 of 1970. The orders passed by the Hon'ble High Court of A.P. in W.P. No.23647 of 2006, dated: 23.08.2007 is here with infructuous. The Tahasildar, Addateegala Mandal is hereby directed to evict the non tribal respondents or any other person bound by this order and restore the same to the Government for onward assignment to the eligible Tribal and comply the report.

3. Aggrieved by the above orders, the Sri Vanama Satyanarayana, S/o.Sri Ramamurthy, R/o. Yeleswaram (V) & (M), East Godavari District has filed a Revision petition dated: 20.09.2011, before the Government of A.P., against the orders of the Additional Agent to the Government cum Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No. 120/2005, dated. 12.08.2011 in respect of land an extent of Acs. 6.65 cts in Sy.No.23/2 situated at Bodlanka (V), Addateegala (M), Alluri Sitharamaraju District with a request to set aside the orders of CMA No.120/2005, dated. 12.08.2011 orders in the interest of Justice.

4. The Project Officer, ITDA, Rampachodavaram cum the Additional Agent to the Government has been requested to furnish the detailed Parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. Accordingly, the Project Officer, ITDA, Rampachodavaram in his letter dated: 06.12.2006 has enclosed the copy of order issued by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District passed in CMA No.120/2005, dated. 12.08.2011 and the remarks on the affidavit filed by the Petitioner.

5. The said Revision Petition has been posted for hearing before the Hon'ble Revision Authority on several dates and finally 15.07.2023 duly informing the same to the petitioner and defendants. During the course of the hearing and on perusal of the connected records/relevant materials and Para-wise Remarks submitted by the Project Officer, ITDA, Rampachodavaram cum Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District and written arguments filed by both parties counsels, the Revision Authority has observed that:

(I) This Revision Petition is filed by Sri Vanama Satyanarayna, S/o. Sri Ramamurthy, resident of Yeleswaram Village and Mandal of Kakinada District erstwhile East Godavari District against the orders of the Additional Agent to Government, Rampachodavaram, with regard to lands admeasuring an extent of Ac. 6.65 cents in Survey No: 23/2 situated in Bodlanka (v) of Addateegala (M), East Godavari District passed in C.M.A. No. 120 of 2005, dated.12-08-2011 dismissing the appeal, duly setting aside the orders of the Special Deputy Collector (TW) passed in LTRP No. No.48/2003, dated: 17.12.2003 and ordering to restore the Petition Schedule land in favour of the State for onward assignment to eligible tribals.

(II) The matter came for hearing finally before the Revision Authority on 15-07-2023 and time was given to submit for any additional submissions on or before 07-08-2023. Counsel for the Revision Petitioner and the Special Deputy Collector were also present and adequate opportunity is

given to the parties to make their submissions. The following order is made after perusal of the material documents available on the record.

(III) The main grounds of the Revision Petitioner is that the findings of the Additional Agent to Government made in C.M.A. No. 120 of 2005 are ambiguous and the Special Deputy Collector, Rampachodavaram, Alluri Sitharamaraju District enquired the case in twice in L.T.R.P Nos. 416/1980 and 27/1997 and stated that there is no prohibited land transfer involved in the case and appeal is filed against the order passed by the Special Deputy Collector(TW) in LTRP No. 48/2003 instead of the earlier orders and the land transfer took place in the year 1948 as such there is no application of Land Transfer Regulations 1 of 70 to the case as per the ruling given by the Supreme Court (A.I.R 1996 SUPREME COURT, 224) and the case is also hit by the principle of resjudicata and finally requested to set aside the impugned order passed in CMA No 120 of 2005.

(IV) Initially a case was filed by the Special Deputy Tahsildar Tribal Welfare Addateegala Mandal before the Special Deputy Collector, Tribal Welfare, a primary authority under section 3 (1) of the Andhra Pradesh Scheduled Areas Transfer Regulation 1 of 1959 as amended by Regulation 1 of 1970 seeking the restoration of the petition Schedule land to the Government after ejecting the non tribal respondent there in over the land for an extent of Ac 6.65 in Sy. No. 23/2 of Bodlanka Village Addateegala Mandal in East Godavari District. The Special Deputy Collector dismissed the case in LTRP No.48/2003 in favour of the non-tribal respondent observing that there is no violation of the Land Transfer Regulations. Aggrieved by the orders of the lower court, the Special Deputy Tahsildar, Tribal Welfare filed an appeal before the Additional Agent to Government/Appellate Authority.

(V) As per the sale dated: 22-10-1948, Konda Bulli Raju sold the Petition Schedule Land of Ac. 6.65 on Sy. No. 23/2 to Vanama Maridiraju for rupees three hundred only. An order was passed earlier in LTRP No. 416/80, confirming right over the lands in question in favour of Vanama Maridiraju concluding that there is no violation of Land Transfer Regulations since a sale took place between non-tribals. Similarly in the second round of litigation an order was passed in LTRP No.27/97 in favour of the non-tribal respondents while observing that there is no violation of provision of Act 1/17 or Regulation 1/59 as amended by 1/70.

(VI) The Additional Agent to Government disagreed with the findings of the Special Deputy Collector, Tribal Welfare observing that the Special Deputy Collector erroneously relied on the statements of non tribal respondents therein and did not conduct proper enquiry except citing the earlier orders passed by the same court in LTRP. No. 416/80 and 27/1997

and did not verify the sale deeds mentioned in the orders and there is no evidence to show their continuous possession and enjoyment as per the provisions of Land Transfer Regulations. The Additional Agent to Government in the Appeal finally dismissed the Appeal by setting aside the order passed by the Special Deputy Collector (TW), Rampachodavaram in LTRP.No.48/2003, dated: 17-12-2003 and directed the Tahsildar to evict the non tribal Respondents or any other person bound by this order and restore the same to the Government for onward assignment to the eligible Tribals and comply the report.

(VII) The Revision Petitioner Vanama Satyanarayana died on 03-06-2015 during the pendency of the Revision Petition and his son Vanama Sreeramamurthy was brought on record by filing a petition by the counsel of the original Revision Petitioner before the Revision Authority. The said petition is allowed on 07-03-2023.

(VIII) The only question arises from the pleadings of the parties is that whether the principle of resjudicata is applicable to the facts of the case and whether any land transfer effected in violation of the provisions of AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70?

(IX) In the case of transfer of land situate within the scheduled areas in favour of a nontribal either from a tribal or another non-tribal, is made absolutely void under the provisions of Sub-section (1) of Section 3, the Agent, Agency Divisional Officer or any other prescribed Officer, as the case may be, is bound to restore the said land to the non-tribal transferor under the provisions of Clause (a) of Sub section (2) of Section 3 of the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1959 (Regulation I of 1959) as amended by Regulation I of 1970.

(X) The enquiry of the Additional Agent to Government reveals that there is no connectivity between the names mentioned in the sale deed claimed by the Revision Petitioner and the occupier of the land in question at the time of initiating an enquiry in the case. The Adangal extract shows that the Revision Petitioner as enjoyer of the land by virtue of a sale transaction. In fact the Revision Petitioner here in failed to produce the sale deed to prove that how he came in to possession by virtue of the said sale deed effected between non tribals and which is not in violation of the provisions of Land Transfer Regulations 1 of 70.

(XI) The High Court of AP (Vemana Somallamma Vs Deputy Collector, Tribal Welfare, Rampachodavaram- AIR 1993 AP 312) held that even without reference to any actual transfer mere possession of the property in agency tract by a non-tribal raised the presumption under section 3 (1) (b) to the effect that such possession was obtained only on a transfer

made by a Scheduled Tribe which is hit by section 3 (1) (a). The High Court further held that "the object of the Regulations seem to be that all immovable property in agency tract as far as possible must be restored to Government or Tribals, as it was held by them at one time."

(XII) Therefore in the absence of valid proof to the occupation and possession of the Revision Petitioner, it shall be deemed that the land in question came in to his possession in violation of the provisions of AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 which prohibits transfer of lands situated in the scheduled area in favour of non tribals.

(XIII) The second question is whether the earlier orders passed by the Special Deputy Collector, Tribal Welfare in L.T.R.P Nos. 416/1980 and 27/1997 will operate resjudicata to the proceedings of the Special Deputy Collector (TW) in LTRP No. No.48/2003?

(XIV) The provisions of Sub-section (1) of Section 3 of the Regulation make it very clear that there is a statutory bar on alienation of immovable property situate in the agency tracts by a person, whether or not such person is a member of Scheduled Tribe.

(XV) In the present case, the Adangal extract is a new and fresh material evidence which is not subjected to put in enquiry before the Special Deputy Collectors in earlier L.T.R.P Nos. 416/1980 and 27/1997. Moreover the Special Deputy Collector, Tribal Welfare took in to cognizance the complaint filed by the Special Deputy Tahsildar, Tribal Welfare under the provisions of Land Transfer Regulations. The Special Deputy Collector instead of conducting a thorough probe in to the contents of the complaint, an order was passed in LTRP No. 48/2003 citing the earlier orders.

(XVI) Therefore, the principle of resjudicata is not applicable to the facts of the present case.

(XVII) The AP High Court held that the orders passed in the first proceedings initiated under the Regulation will not operate as Resjudicata if the later proceedings were initiated by third party or by the same party on the basis of any further material (2003(6)ALD NOC 68).

(XVIII) The enquiry of the Additional Agent to Government/ Appellate Authority reveals that there is a mismatch of the names mentioned in the sale deeds and the name of the actual enjoyer of the land in question. Therefore the question is whether the possession and enjoyment of the lands held by the occupier is substantiated by any documentary evidence.

This issue was not dealt in the earlier proceedings held in L.T.R.P Nos. 416/1980 and 27/1997 to operate the proceedings of the Special Deputy Collector(TW) in LTRP No. 48/2003, as resjudicata

(XIX) The Division Bench of AP High Court held that, the earlier proceedings do not operate Resjudicata in the present proceedings, if the question, involved in the earlier proceedings is distinct and different from the one on the basis of which the present proceedings initiated (2003(1) ALD 386, DB).

(XX) Therefore there is no force in the argument of the Revision Petitioner that the earlier orders passed by the Special Deputy Collector (TW) in L.T.R.P No's. 416/1980 and 27/1997 will operate resjudicata to the proceedings of the Special Deputy Collector(TW) held in LTRP No. 48/2003.

(XXI) In exercise the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition filed by the Petitioner is hereby dismissed. Therefore the impugned order dated: 12-08-2011, passed by the Additional Agent to Government in CMA No. 120/2005 is hereby upheld. As a sequel interim orders if any passed in the matter are hereby vacated. Revision Petition is disposed of accordingly.

6. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under Section 6 of A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70, the orders passed by the Appellate Authority Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No. 120/2005, dated: 12-08-2011 are hereby upheld and the Revision petition filed by Sri Vanama Satyanarayana , S/o. Sri Ramamurthy, R/o. Yeleswaram (V) & (M), Kakinada District erstwhile East Godavari District against with regard to land an extent of 6.65 cts. in Survey No: 23/2 situated at Bodlanka (V), Addateegala (M), Alluri Sitharamaraju District erstwhile East Godavari District is Dismissed and Interim orders passed if any are hereby vacated in the matter.

7. The Collector & District Magistrate, Alluri Sitharamaraju District, Paderu is requested to take necessary action in the matter accordingly and acknowledge the receipt of the case records, which are returned herewith to the Additional Agent to Government/ Project Officer, Rampachodavaram, Alluri Sitharamaraju District.

8. This order shall be published in apegazette.cgg.gov.in.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT(TW)

To

The Agent to Government/Collector & District Magistrate,
Paderu, Alluri Sitharamaraju District. PIN-530 011.
The Additional Agent to Govt. cum Project Officer,
ITDA, Rampachodavaram,
Alluri Sitharamaraju District, PIN-533 288.
The Special Deputy Collector, Rampachodavaram,
Alluri Sitharamaraju District. PIN-533 288
The Tahsildar, Addateegala Mandal, Alluri Sitharamaraju District.
Sri Kola Satyaprasad, Advocate, Rampachodavaram,
Alluri Sitha Ramaraju District, PIN-533288.
Sri Vanama Satyanarayana , S/o.Sri Ramamurthy,
R/o. Yeleswaram (V) & (M),
Kakinada District erstwhile East Godavari District.

Copy to:

The P.S. to Hon'ble Dy. Chief Minister (TW)
The P.S. to Secretary (TW).
The Commissioner of Printing, Stationery(for Publication in the AP Gazette), Vijayawada.
SF/SC.

// FORWARDED :: BY ORDER //

SECTION OFFICER